

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeene G. Kelly.

Northwest Pipeline Corporation

Docket Nos. CP05-32-000
and CP05-32-001

ORDER AUTHORIZING ABANDONMENT AND ISSUING CERTIFICATE

(Issued September 13, 2005)

1. On May 31, 2005, the Commission issued a preliminary determination¹ addressing the non-environmental issues raised in this proceeding, finding that the Capacity Replacement Project proposed by Northwest Pipeline Corporation (Northwest) is consistent with the public interest, as it will ensure that Northwest can comply with current safety and operating standards while maintaining the capability to meet its customer commitments. Final authorization for Northwest's Capacity Replacement Project was reserved, pending completion of the environmental review process.

2. We have now completed our environmental analysis of Northwest's proposal. For the reasons discussed below, we will grant Northwest's requested certificate authorization and abandonment authority, subject to certain environmental compliance conditions, as discussed herein.

I. Background

3. On November 29, 2004, Northwest filed an application under section 7(b) of the Natural Gas Act (NGA) for permission to abandon 268 miles of 26-inch diameter pipeline between Sumas and Washougal, Washington.² In order to partially replace this capacity, Northwest also applied for NGA section 7(c) certificate authorization to construct and operate approximately 79.5 miles of 36-inch diameter pipe and 10,760 horsepower (hp) of compression facilities.

¹ Northwest Pipeline Corporation, 111 FERC ¶ 61,293 (2005).

² On February 3, 2005, Northwest filed an amendment to its application.

4. Northwest's Capacity Replacement Project was developed in response to an amended Corrective Action Order issued by the U.S. Department of Transportation's Office of Pipeline Safety (OPS), after a series of pipeline failures that occurred on Northwest's existing 26-inch diameter pipeline. The initial Corrective Action Order, issued as a result of a rupture on the pipeline occurring on May 1, 2003 near Lake Tapps, Washington, requires Northwest to restrict the operating pressures on its 26-inch pipeline between Sumas and Washougal to 80 percent of its MAOP, and directed Northwest to evaluate the integrity of its pipeline and take remedial actions. OPS issued an amended Corrective Action Order on December 18, 2003, as a result of a second failure on December 13, 2003 near Toledo in Lewis County, Washington.

5. The amended Corrective Action Order requires Northwest: (1) to operate its 26-inch line at a maximum pressure of 100 psig – effectively idling the pipeline – until successful testing justifies removing this pressure restriction; (2) to replace those portions of its 26-inch line in the Sumas-Washougal corridor that are located in Class 3 population density areas within three years, *i.e.*, by December 18, 2006; (3) to replace those portions of its 26-inch line located in Class 2 population density areas within five years, *i.e.*, by December 18, 2008; and (4) to replace the remaining portions of the 26-inch line within 10 years, *i.e.*, by December 18, 2011. On April 9, 2004, OPS clarified that the pipeline replacement requirement could be satisfied by abandonment and mile-by-mile replacement of the 26-inch line.

6. The Commission's May 31 Order found, pending completion of the environmental review, that Northwest's proposed Capacity Replacement Project is consistent with the public interest, as it will ensure that Northwest can comply with current safety and operating standards while maintaining the capability to meet its customer commitments. No requests for rehearing of the May 31 Order were filed.

II. Environmental Analysis

7. On March 1, 2005, the Commission issued a draft environmental impact statement (DEIS) addressing Northwest's proposal. The final EIS (FEIS) was issued on August 1, 2005 and mailed to approximately 1,495 agencies, groups, and individuals on the mailing list. The Notice of Availability, Executive Summary, and Conclusions and Recommendations section of the FEIS was sent to the remaining 2,683 parties on the mailing list. The distribution list for the document is in Appendix A to the FEIS. On August 5, 2005, the U.S. Environmental Protection Agency issued a *Notice of Availability of the Final Environmental Impact Statement for the Proposed Capacity Replacement Project*.³

³ 70 *Fed. Reg.* 45,389 (Aug. 5, 2005).

8. The EIS was prepared with the participation and assistance of the U.S. Army Corps of Engineers (COE), which acted as a cooperating agency under the National Environmental Policy Act (NEPA).⁴ Because the COE must comply with the requirements of NEPA before issuing permits under section 404 of the Clean Water Act⁵ and section 10 of the Rivers and Harbors Act,⁶ cooperating agency status allows it to adopt the EIS if its comments and suggestions have been satisfied. The Washington State Department of Ecology (WDOE) and the Washington Department of Fish and Wildlife (WDFW) participated as cooperating agencies in the preparation of the EIS to assist our staff in addressing State Environmental Policy Act (SEPA) requirements. NEPA documents may be used to meet SEPA requirements if the requirements of the State of Washington Administrative Code are met and the federal EIS is found to be adequate.

9. On April 19, 2004, Northwest filed a request with the Commission to undertake the Commission's pre-filing process. On May 12, 2004, the Commission granted Northwest's request and established a pre-filing docket number, Docket No. PF04-10-000. This allowed more than 6 months of stakeholder input prior to the filing of Northwest's application on November 29, 2004. On July 19, 2004, the Commission issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Capacity Replacement Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings* (NOI). The comment period for the NOI closed on August 18, 2004.

10. The COE, the WDOE, the WDFW, Native American tribes, and other stakeholders provided substantial input throughout the environmental review phase relating to Northwest's Capacity Replacement Project. This included meetings between Commission staff, the COE, and/or the WDOE on July 1, August 3, August 4, and August 31, 2004 and April 12, June 21, June 22, and June 23, 2005. The WDFW, Native American tribes, and other stakeholders participated in several of these meetings. Commission staff participated in field visits with the COE and the WDOE in October and November of 2004. The WDOE participated in the Commission's scoping meetings in August 2004 and the meetings to receive comments on the draft EIS in April 2005. The COE and the WDOE provided written comments on the administrative draft EIS, draft EIS, and administrative FEIS. The WDFW provided written comments on the draft EIS and the administrative FEIS. These comments were addressed in the subsequent versions of the document. In addition, numerous conference calls between Commission staff and

⁴ 42 U.S.C. § 4321 *et seq.* (2005)

⁵ 33 U.S.C. § 1344 (2005).

⁶ 33 U.S.C. § 404 (2005).

these agencies were held to discuss agency comments on the document. Our staff formally responded to the WDOE's and the WDFW's comments on the draft EIS. These comments and responses are included in section 6.0 of the FEIS. On August 3, 2005, the WDOE issued a notice adopting the FEIS.

11. The COE, the WDOE, the WDFW, and Native American tribes were primarily concerned about Northwest's proposed waterbody crossing methods and requested a detailed evaluation of alternative crossing methods at major and sensitive waterbody crossings, including two large wetland complexes. Five waterbodies are considered particularly sensitive due to their size and because they provide coldwater and essential fish habitat and also support special status species. Northwest proposes to cross three of these waterbodies (the North Fork Nooksack, North Fork Stillaguamish, and South Fork Stillaguamish Rivers) using the horizontal directional drill (HDD) method, which is generally the preferred method to cross major and sensitive waterbodies because it avoids in-stream construction and riparian impacts. The HDD method, however, requires suitable geology, topography, and space to accommodate the bending radius of the pipe.

12. Northwest proposes to initiate the three HDDs in October 2005 and commence mainline construction of the Capacity Replacement Project on or about March 1, 2006 to take advantage of the summer construction season and place the new facilities in service by November 1, 2006 to meet the December 18, 2006 date required by DOT's Correction Action Order. It is necessary for Northwest to initiate the HDDs in October 2005 because the probability of completing a successful HDD of the North Fork Nooksack, North Fork Stillaguamish, and South Fork Stillaguamish Rivers has been determined to be only 60 percent, 50 percent, and 80 percent, respectively, based on the results of the geotechnical investigation. The FEIS concludes that crossing these rivers using the HDD method would result in fewer environmental impacts than use of Northwest's proposed alternative wet open-cut crossing method. By initiating the HDDs in the fall of 2005, Northwest's drilling contractors would have maximum time to attempt a successful HDD crossing before it would be necessary to abandon the HDD and use an alternative crossing method during the in-stream work window in 2006.

13. Northwest has reviewed other possible crossing methods, including flumed, dam and pump, bored, diverted dry open-cut, and aerial. Northwest has indicated that most of these are not feasible due to site-specific concerns and the most feasible crossing method for the Nisqually River and Pilchuck Creek is an aerial crossing if the open-cut is not allowed. This method would have minimal instream impact but most of the same riparian impact and involve construction lasting about 2 months or about 4 times as long as an open-cut. In addition it would involve more aesthetic impact and be more vulnerable to third-party damage.

14. Northwest has agreed to use an independent third-party contractor to be the Commission's ongoing presence on the project to ensure compliance with agreed upon mitigation as well as the conditions of this Order. If the HDD should fail, Northwest has agreed to submit documentation of the failure to the appropriate agencies and would not implement any alternative crossing method until it has received confirmation that the agencies have received the documentation. We will add a new condition 18 that requires Northwest to file this same documentation with us for review and approval prior to using the alternative method.

15. The remaining two particularly sensitive waterbodies are Pilchuck Creek and the Nisqually River. Because the geotechnical investigation determined that there was a high likelihood of HDD failure at Pilchuck Creek (75 percent) and an HDD of the Nisqually River would be infeasible, Northwest does not propose to attempt an HDD crossing of either of these waterbodies. Northwest proposes to cross these two waterbodies using the wet open-cut method. This crossing method was of great concern to the agencies and as a result the FEIS contained a condition, which we adopt, that Northwest continue to work with the agencies to formulate a satisfactory crossing method, and file it with the Commission for review and approval prior to construction. We will add an additional condition (new 19), implicit in the aforementioned condition 17, explicitly requiring that the permit pursuant to section 401 of the Clean Water Act be issued before any construction may commence.

16. In-stream construction could cause the dislodging and transport of channel bed sediments, which could cause changes in downstream bottom contours, essential fish habitat, and streamflow dynamics that could cause additional erosion and downstream sedimentation. The FEIS includes a detailed site-specific discussion of the downstream effects of suspended sediments at the proposed or alternative wet open-cut crossings for the five particularly sensitive waterbodies. Although there would be a temporary increase in turbidity from the suspension of sediment during the crossings, the worst case, maximum predicted total suspended sediment concentrations resulting from a wet open-cut crossing of all five waterbodies should HDDs be unsuccessful fall within naturally occurring total suspended sediment concentrations resulting from natural flow events based on the available water quality data for the waterbodies.

17. Northwest would minimize impacts associated with a wet open-cut crossing of these waterbodies by installing the pipe during allowable in-stream construction windows specified by the WDFW. Work areas would be restored as near as practicable to preconstruction contours, including replacement of the gravel and cobble streambed. Northwest would plant riparian tree and shrub species across the right-of-way within 50 feet of all fish-bearing streams and at other streams where riparian vegetation was present before construction. Fast growing native trees would be planted close to the top

of the bank to provide the most rapid canopy recovery possible to shade and overhang the waterbody.

18. Northwest would install large woody debris (LWD) at appropriate areas in each waterbody within the construction right-of-way to mitigate for potential short-term impacts on aquatic species due to the wet open-cut crossing. In addition, Northwest would participate in projects that specifically target the creation or enhancement of spawning and other requisite habitats for salmonids. Specifically, LWD with attached root wads and tree-trunk lengths and diameters specified by the WDFW or other regulatory agencies that are cleared from the construction right-of-way and temporary extra workspaces would be collected, transported, and stockpiled at designated locations. Northwest would provide these logs to tribes/organizations for use as LWD conducting in-stream restoration and enhancement projects within the affected Water Resource Inventory Areas (WRIA).

19. Northwest has filed site-specific crossing plans for the proposed and alternative crossing methods for the North Fork Nooksack River, North Fork Stillaguamish River, South Fork Stillaguamish River, Pilchuck Creek, and the Nisqually River. Northwest has also filed a Mitigation Plan for Waterbody Crossings. Our staff has reviewed these plans and finds them acceptable. We agree with that assessment. While use of the HDD method would be preferable and result in the least environmental impacts, if the HDD method is not feasible or fails, we believe that the short-term impact of a wet open-cut crossing would be environmentally acceptable. Furthermore, Northwest's Mitigation Plan for Waterbody Crossings would mitigate and compensate for unavoidable impacts.

20. The wetland complexes of most concern to the COE, the WDOE, and the WDFW are Olson Lake and Evans Creek. Northwest proposes to cross these two wetland complexes using the push-pull method due to the size and low flow (*e.g.*, inundated wetland) characteristics expected at these crossing locations. Northwest investigated the possibility of using the HDD method to cross these wetland complexes; however, Northwest did not consider this method to be practical at Olson Lake or feasible at Evans Creek. An HDD crossing of Olson Lake would need to be between 2,600 and 3,600 linear feet to avoid the glacial till layer in the area and would require more temporary extra workspace than a push-pull crossing. A new permanent right-of-way would also have to be established. Northwest states that an HDD crossing of Evans Creek would not be feasible due to the size of the wetland complex and the lack of available workspace on either side of the complex to stage the drill and fabricate the pipe string. Northwest has filed site-specific crossing plans for a push-pull crossing of Olson Lake and Evans Creek. Based on staff review, we find these plans to be acceptable.

21. To comply with the COE's policy of "no net loss" of wetlands in the United States, Northwest contacted various agencies, organizations, conservation groups, and

trusts in the various basins (*i.e.*, WRIAs) crossed by the project to identify potential mitigation opportunities and has developed a proposed compensatory wetland mitigation plan. To compensate for the wetland impacts associated with the loops, Northwest is proposing a combination of mitigation for enhancement and preservation projects that would exceed Northwest's mitigation requirements. For the permanent fill associated with the aboveground facilities, Northwest proposes two wetland enhancement projects.

22. As an alternative to Northwest's proposed compensatory mitigation plan for the portion of the project in King County on the Snohomish Loop, Northwest is working with King County, the COE, the WDOE, and the WDFW to develop a plan proposed by the county. As part of the plan, Northwest would contribute funds to King County's mitigation reserve program and the county would select the mitigation site, design and implement the mitigation plan, and maintain and monitor the site. As an alternative to Northwest's proposed compensatory mitigation plan for the Fort Lewis Loop, Northwest is working with the Nisqually Tribe, the COE, the WDOE, and the WDFW to develop a plan proposed by the tribe. The plan would involve creation of an escrow account funded by Northwest to purchase land for preservation and restoration projects in the Nisqually Basin through the Nisqually Land Trust or other non-profit organization. The plan would also compensate for in-water construction impacts, including the proposed wet open-cut crossing of the Nisqually River. Because the compensatory wetland mitigation plan is still under development for the proposed project, we are requiring in environmental condition 20 of this order that Northwest continue consultation with the COE, the WDOE, other applicable agencies, and appropriate Native American tribes to finalize the compensatory wetland mitigation plan for the project and file the final plan with the Secretary.

23. The majority of comments received from the public related to impacts on residential areas. Northwest's proposed construction work area (*i.e.*, construction right-of-way and temporary extra workspaces) would be located within 50 feet of 222 residences and 23 other structures, including shops, barns, garages, trailers, a batting cage, and commercial buildings. The majority of these residences and structures are on the Snohomish Loop. Temporary construction impacts on residential areas could include inconvenience caused by noise and dust generated by construction equipment, personnel, and trenching of roads or driveways; ground disturbance of lawns; removal of trees, landscaped shrubs, or other vegetative screening between residences and/or adjacent rights-of-way; potential damage to existing septic systems or wells; and removal of aboveground structures, such as fences, sheds, or trailers from within the right-of-way. The majority of the comments about residential impacts were received from landowners in three subdivisions on the Snohomish Loop. These are the Deer Park Subdivision, the Saddleback Subdivision, and the Lake of the Woods Subdivision.

24. In the Deer Park Subdivision, the developers placed homes immediately adjacent to the right-of-way and the backyards extend into Northwest's existing permanent easement in several locations. As a result, several homes are located within 50 feet of the construction work area and several fences and retaining walls would have to be temporarily removed during pipeline construction. After construction, fences and retaining walls that have encroached upon Northwest's existing permanent easement would be set back from their original location to a distance of 5 feet off the centerline of the new 36-inch-diameter loop to allow Northwest to partially re-establish its easement. Northwest has developed several measures it would implement to reduce impacts on residences, including the preparation of a Residential Area Work Plan for the Deer Park Subdivision. The additional mitigation measures identified in the Residential Area Work Plan for the Deer Park Subdivision include: constructing in sections throughout the neighborhood to minimize the construction time near any individual home; installing safety fencing that consists of 6-foot-high chain link sections on the edges of both sides of the construction right-of-way to create a continuous boundary that separates the work area from the homes; and posting a security guard within the work area during non-working hours.

25. The residents in the Saddleback Subdivision provided comments regarding impacts on the subdivision associated with Northwest's proposed temporary extra workspaces, use of the residents' private road (238th Avenue) as an access road, and expanded aboveground facility site at the southern end of the Snohomish Loop. Residents expressed concern regarding the impact of Northwest's proposed facilities on a water well shared by four families and associated water lines, damage to the subdivision's private road, loss of trees and the resulting visual impact, and increased traffic and safety hazards in the area during construction.

26. Our staff conducted a site visit to the Saddleback Subdivision on June 22, 2005 to meet with landowners and evaluate their suggested access road alternatives and alternatives to Northwest's proposed temporary extra workspaces. Based on staff's site visit and recommendation, none of the alternative access road locations would be preferable to the use of 238th Avenue because they would be either unsafe, not technically feasible, and/or would merely shift impacts from one set of landowners to another. To minimize impacts associated with the increased traffic, Northwest would provide a flag person for traffic control as needed and would restrict construction-related traffic to a 15 mile per hour speed limit on 238th Avenue. Northwest would repair any construction-related damage to 238th Avenue including, but not limited to, filling potholes, applying additional gravel, and replacing or resurfacing the road.

27. Based on staff's review of temporary extra workspace alternatives during the site visit, it may be feasible to reduce and reconfigure the temporary extra workspaces to move them away from the subdivision's well and minimize the amount of tree clearing

required in the area. We also believe that Northwest could increase the setback from the well by accessing the construction work area further south than Northwest proposed. Condition 24 of this order requires Northwest to file a Residential Area Work Plan for the Saddleback Subdivision that: (1) provides that Northwest require the contractor to bring equipment into the area off of 238th Avenue fully loaded with fuel so that no refueling will occur within the temporary extra workspace closest to the subdivision's well; (2) evaluates the feasibility of increasing the setback from the subdivision's well during access to and from the construction work area; (3) evaluates the feasibility of reducing and moving the majority of the temporary extra workspace currently proposed on the east side of the construction right-of-way near the subdivision's well to the west side of the construction right-of-way; (4) evaluates the feasibility of reducing the temporary extra workspace currently proposed adjacent to the existing aboveground facility to minimize the amount of tree clearing required in the area; and (5) incorporates a site-specific residential construction mitigation plan that depicts the locations and sizes of all of the proposed temporary extra workspaces in the area.

28. Since the issuance of the FEIS, a resident of the subdivision has submitted e-mails to our staff related to the residents' negotiations with Northwest regarding 238th Avenue. These e-mails have been placed on the public record in this proceeding. Specifically, the residents are requesting that Northwest: (1) pay for a professional evaluation of the road before and after construction; (2) have the old asphalt removed and replaced to a depth of 4 inches; (3) construct a temporary walkway for residents to use along the road; (4) restrict parking along the road during construction; (5) sweep the road of mud and debris twice a day; and (6) provide compensation for use of the road and the resulting inconvenience during construction. Furthermore, during operation, the residents request that Northwest provide an alternative permanent access road to its valve site. The residents have requested that Northwest address these items in the Residential Area Work Plan for the Saddleback Subdivision required by environmental condition 24 of this order.

29. The amount of compensation paid to a landowner is subject to negotiation by Northwest and the landowner. However, the remaining above-described requests of the residents will be evaluated during our staff's review of Northwest's Implementation Plan that will be submitted in accordance with environmental condition 6 of this order.

30. Residents in the Lake of the Woods Subdivision along the Snohomish Loop expressed concerns about Northwest's proposed construction right-of-way and temporary extra workspaces on their properties. Two of the landowners who expressed concerns are not affected by Northwest's existing permanent easement but Northwest is requesting temporary extra workspace on their properties to facilitate construction activities. The first landowner has property located at about milepost (MP) 1389.5 of the Snohomish Loop and has expressed concern about potential impacts on her septic system and

associated drain field, the removal of large trees and shrubs, and damage to other landscaping features (*e.g.*, fence, lighting). The property is adjacent to the north side of Colin Creek. The second landowner has property located at about MP 1389.6 and has expressed concerns about the removal of mature landscaping and potential damage to a sport court located on the property. Another landowner adjacent to the property at MP 1389.6 has expressed concerns about the removal of mature landscaping associated with Northwest's proposed construction right-of-way.

31. Our staff conducted a site visit to the Lake of the Woods Subdivision on June 22, 2005 to meet with the concerned landowners and evaluate Northwest's proposed construction right-of-way and temporary extra workspace locations and potential alternatives to minimize impacts on this area. Northwest has been working with the landowners to address their concerns about the proposed construction right-of-way and temporary extra workspaces and has reconfigured the workspace on the property at MP 1389.5 to avoid the landowner's septic system and maintain the required buffer from the drain field. Northwest has also reduced its construction right-of-way width near MP 1386.9 to minimize impacts on the landowners in this area. We believe, based on our staff's site visit, that the temporary extra workspace on the property at MP 1389.6 could be moved to an open lawn area adjacent to the property to minimize the removal of mature landscaping. Environmental condition 25 of this order requires Northwest to file a Residential Area Work Plan for the portion of the Lake of the Woods Subdivision between MPs 1389.4 and 1389.6 that: (1) further evaluates the feasibility of moving the temporary extra workspace currently proposed on the property at MP 1389.6 to the open lawn area adjacent to the property; (2) incorporates a site-specific residential construction mitigation plan that depicts the locations and sizes of all of the proposed temporary extra workspaces in the area, including those for the Colin Creek crossing; (3) includes a request for a variance from the FERC staff's Wetland and Waterbody Construction and Mitigation Procedures for any temporary extra workspace located within 50 feet of Colin Creek; and (4) incorporates Northwest's proposed site-specific mitigation measures to reduce impacts on this area.

32. A comment was received following issuance of the FEIS concerning Northwest's 26-inch-diameter pipeline that was ruptured by the Everson Landslide on February 8, 1997. The commenter is requesting alternative routes be examined. The commenter is also requesting Northwest to construct fire breaks and develop evacuation plans.

33. The existing 2.6-inch and 30-inch-diameter pipelines originally extended approximately 1,150 feet across the upper area of the slide. After the 1997 rupture, Northwest undertook comprehensive and extensive geologic and geotechnical investigations to evaluate the nature, extent (lateral and vertical), and history of the landslide and surrounding unaffected area. Based on these investigations, Northwest concluded that the landslide that occurred in 1997 had moved repeatedly in the historic

and geologic past within roughly the same limits as its 1997 movement. Therefore, to avoid the effects of future movement of the Everson Landslide, Northwest rerouted its pipelines 300 feet further east and upslope of the affected area within the area underlain by undisturbed glacial sediments. In 1998, Northwest developed a Monitoring and Mitigation Plan for the rerouted pipelines to monitor their performance (*i.e.*, slope stability). The Monitoring and Mitigation Plan, which was approved by Whatcom County on April 1, 1998, includes visual observations, piezometers, inclinometers, surveyed monitoring points, and strain gauges to monitor for any movement or deformation along the reroute. Since 1998, Northwest has been filing annual reports documenting the data and conclusions regarding the reroute for review by Whatcom County.

34. To date, no movement, ground deformation, or other signs of incipient slope movement have been observed along the reroute. Strain gauge data through May 24, 2004 indicate that the existing 26-inch and 30-inch-diameter pipelines are not experiencing significant strain or patterns of strain change that would indicate slope movement. Northwest is proposing to install the Sumas Loop uphill of the existing pipelines. In accordance with its Geotechnical Hazards Monitoring Program, Northwest would use various methods to monitor all areas that could pose a landslide risk to any of the proposed loops including real-time strain gauges, survey data, and periodic surveillance that match the locations on the existing pipelines in this area and any area that poses a landslide risk. We agree that implementation of these measures is adequate. Review of this area indicated that alternatives would not provide any better assurance of protection from landslides. Moreover, Northwest works with local responders to handle potential emergencies as part of its operational requirements under DOT regulations.

35. The issues related to the waterbody and wetland crossings, as well as the impacts on residential areas discussed above, represent the primary areas of controversy associated with the Capacity Replacement Project. The FEIS concludes that construction and operation of the proposed project and the associated abandonment activities would result in limited adverse environmental impacts. These limited impacts would be most significant during the period of construction. This determination is based on a review of the information provided by Northwest and further developed from data requests; field investigations; scoping; literature research; alternatives analysis; and contacts with federal, tribal, state, and local agencies, and individual members of the public including the above stakeholders. The FEIS determines that if the project is constructed and operated in accordance with applicable laws and regulations, Northwest's proposed mitigation, and the FERC staff's additional mitigation recommendations, it would be an environmentally acceptable action. Although many factors were considered in this determination, the principal reasons are:

- Ninety-nine percent of the proposed loops would be within or adjacent to Northwest's existing right-of-way and 93 percent of the proposed loops would be within Northwest's existing permanent easement;
- Northwest would abandon the existing 26-inch-diameter pipeline in place along the non-looped portions of its system, which would eliminate disturbance to 188.5 miles of the right-of-way with the exception of the activities that would occur to isolate the 26-inch-diameter pipeline from other system components;
- Northwest would submit documentation of concurrence from the WDOE that the project is consistent with the Washington Coastal Zone Management Program before construction;
- the project would be consistent with or in conformance with all identified comprehensive plans and critical areas ordinances;
- Northwest would implement the FERC staff's Upland Erosion Control, Revegetation, and Maintenance Plan and Wetland and Waterbody Construction and Mitigation Procedures; its Erosion Control and Revegetation Plan; Spill Prevention, Containment and Countermeasures Plan; HDD Contingency Plan; Groundwater Monitoring and Mitigation Plan; Mitigation Plan for Waterbody Crossings; and Residential Area Work Plans for the Deer Park, Saddleback, and Lake of the Woods Subdivisions to protect natural resources and residential areas during construction and operation of the project;
- use of the HDD method would avoid disturbances to the beds and banks of the North Fork Nooksack, North Fork Stillaguamish, and South Fork Stillaguamish Rivers and associated wetlands/riparian areas. If the HDD method fails and Northwest's proposed alternative wet open-cut method were used to cross these waterbodies, the short-term impact of a wet open-cut crossing would be environmentally acceptable;
- Northwest would implement approved waterbody crossing and compensatory wetland mitigation plans to minimize and compensate for unavoidable stream and wetland impacts;
- the appropriate consultations with the U.S. Fish and Wildlife Service; the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service; the Washington State Historic Preservation Office; the Fort Lewis Military Reservation; and

Native American tribes, and any appropriate compliance actions resulting from these consultations, would be completed before Northwest would be allowed to begin construction in any given area; and

- an environmental inspection and compliance monitoring program would ensure compliance with all mitigation measures that become conditions of certification.

36. Based on the information, analysis and conclusions presented in the FEIS regarding the potential environmental effects of Northwest's proposed Capacity Replacement Project, we find that Northwest's project would be environmentally acceptable if constructed and operated in accordance with the recommended environmental mitigation measures in the Appendix to this order. Thus, we are including the environmental mitigation measures recommended in the FEIS as environmental conditions to the authorization granted by this order for Northwest's Capacity Replacement Project.

37. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.⁷ Northwest shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Northwest. Northwest shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

38. The Commission, on its own motion, received and made a part of the record all evidence, including the application, as amended and supplemented, and exhibits thereto, submitted in this proceeding. Upon consideration of this record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued in Docket Nos. CP05-32-000 and CP05-32-001 to Northwest under NGA section 7(c), authorizing the construction and operation of the natural gas facilities, as described in this order and

⁷ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

more fully in the May 31, 2005 preliminary determination and in the application as amended, and as conditioned herein, and subject to the environmental conditions set forth in Appendix B.

(B) Pursuant to NGA section 7(b), Northwest is granted permission and approval to abandon (1) 268 miles of 26-inch diameter pipeline between Sumas and Washougal, Washington; (2) 13 MDth/d of Evergreen Expansion capacity; and (3) 58 MDth/d of south flow design capacity from Jackson Prairie, as described in this order and more fully in the May 31, 2005 preliminary determination and in the application as amended.

(C) The authorizations granted to Northwest above are conditioned on the following:

- (1) Northwest's constructing and making available for service the facilities described herein within two years of this order, pursuant to paragraph (b) of section 157.20 of the Commission's regulations;
- (2) Northwest's compliance with all regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs(a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) Northwest's notifying the Commission within 10 days of the date of the abandonment of facilities and services.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

Northwest Pipeline Corporation Docket Nos. CP05-32-000 and CP05-32-001

Environmental Conditions for the Capacity Replacement Project

As recommended in the FEIS, this authorization includes the following conditions:

1. Northwest Pipeline Corporation (Northwest) shall follow the construction procedures and mitigation measures described in its applications, supplemental filings (including responses to staff data requests), and as identified in the FEIS, unless modified by this order. Northwest must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegation authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:
 - a. the modification of conditions of this order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel will be informed of the EI's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the FEIS, as supplemented by filed alignment sheets and shall include the staff's recommended facility locations, if any. **As soon as they are available, and before the start of**

construction, Northwest shall file with the Secretary revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this order. All requests for modifications of environmental conditions of this order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

Northwest's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this order must be consistent with these authorized facilities and locations. Northwest's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.

5. Northwest shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

This requirement does not apply to extra workspace allowed by the Upland Erosion Control, Revegetation, and Maintenance Plan or minor field realignments per landowner needs and requirements that do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities; and
 - d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.
6. **At least 60 days before the anticipated start of any construction**, Northwest shall file an initial Implementation Plan with the Secretary for the review and

written approval of the Director of OEP describing how Northwest will implement the mitigation measures required by this order. Northwest shall also submit this plan to the Washington State Department of Ecology (WDOE) and the Washington Department of Fish and Wildlife (WDFW). Northwest must file revisions to the plan as schedules change. The plan shall identify:

- a. how Northwest will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
 - b. the number of EIs assigned per spread and aboveground facility site, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
 - c. company personnel, including EIs and contractors, who will receive copies of the appropriate materials;
 - d. what training and instructions Northwest will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change), with the opportunity for OEP staff to participate in the training session(s);
 - e. the company personnel (if known) and specific portion of Northwest's organization having responsibility for compliance;
 - f. the procedures (including use of contract penalties) Northwest will follow if noncompliance occurs; and
 - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the mitigation training of onsite personnel;
 - iii. the start of construction; and
 - iv. the start and completion of restoration.
7. Northwest shall file updated status reports with the Secretary on a **biweekly** basis **until** all construction-related activities, including restoration, are complete. These status reports shall also be provided to the U.S. Army Corps of Engineers (COE); the WDOE; the WDFW; and other federal, state, and local agencies with permitting responsibilities upon request. Status reports shall include:
- a. the current construction status of each spread, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the EI(s) or the third-party compliance monitor(s) during the reporting period (both for the conditions imposed by the Commission and

- any environmental conditions/permit requirements imposed by other federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints that may relate to compliance with the requirements of this order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by Northwest from other federal, state, or local permitting agencies concerning instances of noncompliance, and Northwest's response.
- 8. Northwest must receive written authorization from the Director of OEP **before commencing** service for each component of the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way is proceeding satisfactorily.
- 9. **Within 30 days of placing the certificated facilities in service**, Northwest shall file an affirmative statement with the Secretary, certified by a senior company official:
 - a. that the facilities have been constructed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions Northwest has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
- 10. Northwest shall file documentation of concurrence from the WDOE that the project is consistent with the Washington Coastal Zone Management Program with the Secretary **before any construction**.
- 11. Northwest shall prepare a revised Erosion Control and Revegetation Plan (ECR Plan) that includes the following tasks in the list of EI responsibilities:
 - a. evaluating the source of any imported fill and ensuring that it meets the standards for clean fill as defined in the Solid Waste Handling Standards for Washington State, Chapter 173-350-100 of the Washington Administrative Code;

- b. identifying areas of arsenic contamination along the right-of-way and ensuring that arsenic-contaminated soils are handled in compliance with federal, state, and local safety and environmental regulations;
- c. implementing guidelines to ensure that equipment is washed before entering waterbodies and traveling on public roadways and to ensure that roadways are swept at the end of the work day if necessary;
- d. ensuring the repair of all ineffective temporary erosion control measures as soon as possible but not longer than 24 hours after identification and requiring the repairs to be completed immediately if discharges of turbid water or other pollutants are occurring; and
- e. determining the locations where slash or non-merchantable timber would be scattered across the right-of-way to be used for wildlife habitat and the quantities that would be used in consultation with WDFW biologists and landowners.

The ECR Plan shall also be revised to include all of the EI duties listed in section 2.5 of the FEIS and state that notification to agencies of construction activities, permit violations, and/or situations where permit requirements need to be altered due to field conditions shall occur as soon as possible but no later than 4 hours after identification of the issue unless handled as a variance through the third-party compliance monitoring program or an alternative agreement with individual compliance agencies is adopted. Northwest shall file the revised ECR Plan with the Secretary for the review and written approval of the Director of OEP **before any construction.**

- 12. Northwest shall file the site-specific ECR Plan for the Fort Lewis Military Reservation (Fort Lewis) and documentation of Fort Lewis' concurrence with the plan with the Secretary **before construction on the military reservation.**
- 13. Northwest shall file a revised Spill Prevention, Containment, and Countermeasures Plan (SPCC Plan) for activities on Fort Lewis and documentation of Fort Lewis' concurrence with the plan with the Secretary **before construction on the military reservation.**
- 14. Northwest shall consult with the WDOE and prepare a plan for the discovery and management of contaminated soils, sediments, and groundwater. The plan shall include specific protocols for the testing, handling, and reporting of pre-existing contaminated soils, sediments, and groundwater encountered during construction as well as the contact names and telephone numbers of appropriate state and local agency personnel. The plan and documentation of the WDOE's concurrence with the plan shall be filed with the Secretary **before any construction.**

15. Northwest shall file with the Secretary and the WDOE a table and/or figure accurately depicting the location of all wells and springs within 200 feet of the construction work area and proposed mitigation measures to avoid or minimize potential impacts on these wells and springs. Northwest shall file the table and/or figure and proposed mitigation measures with the Secretary and the WDOE, and notify all affected landowners that construction would occur within 200 feet of their well or spring, **at least 60 days before the anticipated start of construction in those areas.**
16. Northwest shall prepare a revised SPCC Plan that includes the following measures:
 - a. Use equipment with a lower spill potential (*e.g.*, excavators that are operated with cables and counterweights that may have less oil on board).
 - b. Power wash or steam clean the equipment before it enters the waterbody. Use no soaps. Washing/cleaning shall occur offsite at an area that is preferably paved and has stormwater treatment.
 - c. Develop a check list and inspect equipment before it enters the waterbody. The list shall include a requirement to check:
 - i. hydraulic hoses, connections, and rams for wear and leakage;
 - ii. lube fittings to ensure that they are wiped clean of excess grease; and
 - iii. fill caps to ensure that they are tightly sealed.
 - d. Keep only the amount of fuel on board that would be used during the work period.

The locations of the wash/cleaning areas specified in item b. shall be included in the Implementation Plan (see mitigation measure number 6). Northwest shall file the revised SPCC Plan with the Secretary for the review and written approval of the Director of OEP **before any construction.**

17. Northwest shall continue to consult with the COE; the U.S. Fish and Wildlife Service (FWS); the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries); the WDOE; the WDFW; other applicable agencies; and appropriate Native American tribes to finalize its site-specific waterbody crossing plans and mitigation requirements. Northwest shall file any revised site-specific waterbody crossing plans and the final Mitigation Plan for Waterbody Crossings with the Secretary for the review and written approval of the Director of OEP **before construction at each applicable waterbody.**
18. Northwest must file the same documentation on the failure of any HDD with the Secretary for review and approval prior to using the alternative method.

19. Northwest must file evidence of issuance of the section 401 permit under the Clean Water Act **before any construction can begin.**
20. Northwest shall continue to consult with the COE, the WDOE, other applicable agencies, and appropriate Native American tribes to finalize its compensatory wetland mitigation plan for the project. Northwest shall file the final compensatory wetland mitigation plan with the Secretary.
21. Northwest shall retain the services of an arborist or registered professional forester to conduct a safety assessment of trees located along the edge of the construction right-of-way that were potentially affected by construction activities and are in close proximity to residences or high use areas. The tree safety assessment shall be conducted **within 10 days of construction on a property in such areas.** Northwest shall file a report of the tree safety assessment and a description of any corrective actions implemented with the Secretary **no later than 60 days after placing the facilities in service.**
22. Northwest shall file with the Secretary for the review and written approval of the Director of OEP a copy of the final compensatory mitigation plan for northern spotted owl critical habitat and documentation of the FWS' and Fort Lewis' concurrence with the plan **before construction of the Fort Lewis Loop.**
23. Northwest shall not **begin any construction activities until:**
 - a. Northwest completes any outstanding species-specific surveys and the FERC receives comments from the FWS and NOAA Fisheries regarding the preconstruction survey reports;
 - b. the FERC completes formal consultation with the FWS and NOAA Fisheries; and
 - c. Northwest receives written notification from the Director of OEP that construction and/or implementation of conservation measures may begin.
24. Northwest shall file a Residential Area Work Plan for the Saddleback Subdivision that:
 - a. includes the provision that Northwest require the contractor to bring equipment into the area off of 238th Avenue fully loaded with fuel so that no refueling would occur within the temporary extra workspace closest to the subdivision's well;
 - b. evaluates the feasibility of increasing the setback from the subdivision's well during access to and from the construction work area;
 - c. further evaluates the feasibility of reducing and moving the majority of the temporary extra workspace currently proposed on the east side of the

- construction right-of-way near the subdivision's well to the west side of the construction right-of-way;
- d. further evaluates the feasibility of reducing the temporary extra workspace currently proposed adjacent to the existing aboveground facility to minimize the amount of tree clearing required in the area; and
- e. incorporates a site-specific residential construction mitigation plan that depicts the locations and sizes of all of the proposed temporary extra workspaces in the area.

Northwest shall file the Residential Area Work Plan for the Saddleback Subdivision with the Secretary for the review and written approval of the Director of OEP **before construction in this area.**

25. Northwest shall file a Residential Area Work Plan for the portion of the Lake of the Woods Subdivision between mileposts (MPs) 1389.4 and 1389.6 that:
- a. further evaluates the feasibility of moving the temporary extra workspace currently proposed on the property at MP 1389.6 to the open lawn area adjacent to the property;
 - b. incorporates a site-specific residential construction mitigation plan that depicts the locations and sizes of all of the proposed temporary extra workspaces in the area, including those for the Colin Creek crossing;
 - c. includes a request for a variance from the FERC staff's Wetland and Waterbody Construction and Mitigation Procedures for any temporary extra workspace located within 50 feet of Colin Creek; and
 - d. incorporates Northwest's proposed site-specific mitigation measures to reduce impacts on this area.

Northwest shall file the Residential Area Work Plan for the portion of the Lake of the Woods Subdivision between MPs 1389.4 and 1389.6 with the Secretary for the review and written approval of the Director of OEP **before construction in this area.**

26. Northwest shall file a report of the remedial action completed at each of the 28 sites listed in table 4.8.5-1 of the FEIS or documentation of concurrence from the WDOE that no further action is needed with the Secretary **before ground-disturbing activities at these locations.**
27. Northwest shall paint all aboveground piping surfaces and structures associated with the non-located pig receivers at MP 1461.8 and 1408.8 and the mainline valves at MPs 1467.9, 1461.8, and 1408.8 to blend with the surrounding landscape and add slats of a compatible color to the fencing around these facilities.

28. Northwest shall defer implementation of any treatment plans/mitigation measures (including archaeological data recovery), construction of facilities, and use of all staging, storage, or temporary work areas and new or to-be-improved access roads **until:**
- a. Northwest files with the Secretary and the Washington State Historic Preservation Office (SHPO), and consults with the COE, Fort Lewis, and Native American tribes as applicable, all additional cultural resources survey and evaluation reports and any necessary treatment plans;
 - b. Northwest files the comments of the SHPO, the COE, Fort Lewis, and Native American tribes as applicable on all cultural resources survey reports and plans; and
 - c. the Director of OEP reviews all cultural resources survey reports and plans, and notifies Northwest in writing that treatment plans/mitigation measures may be implemented or any construction in that area may proceed.

All material filed with the Commission containing **location, character, and ownership information** about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CONTAINS PRIVILEGED INFORMATION - DO NOT RELEASE.”**

29. Northwest shall make all reasonable efforts to assure its predicted noise levels from the Chehalis and Washougal Compressor Stations are not exceeded at nearby noise-sensitive areas (NSAs) and shall file noise surveys showing this with the Secretary **no later than 60 days** after placing the modified compressor stations into service. However, if the noise attributable to the operation of either compressor station at full load exceeds the day-night equivalent sound level of 55 decibels of the A-weighted scale at any nearby NSA, Northwest shall file a report on what changes are needed and shall install additional noise controls to meet that level **within 1 year** of the in-service date. Northwest shall confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.